

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**JAMES DENNIS,**

**Plaintiff,**

**v.**

**Civil Action No.: 2:11cv401**

**WELLS FARGO BANK, N.A.,  
FEDERAL HOME LOAN MORTGAGE  
CORPORATION,  
AND  
SAMUEL I. WHITE, P.C.,**

**Defendants.**

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S  
MOTION FOR LEAVE TO FILE SUPPLEMENTAL AUTHORITY**

Defendants, Wells Fargo Bank, N.A. ("Wells Fargo"), Federal Home Loan Mortgage Corporation, ("Freddie Mac") and Samuel I. White, P.C. ("SIW") (collectively, the "Defendants"), by and through counsel, for their Opposition to Plaintiff's Motion For Leave to File Supplemental Authority, respectfully state as follows:

1. James Dennis ("Plaintiff") filed a Complaint on June 22, 2011, which Defendants moved to dismiss. In response, Plaintiff filed an Amended Complaint "relat[ing] to the treatment of applications for mortgage modifications under the federal Home Affordable Modification Program ("HAMP")." (Plaintiff's Motion for Leave to File Supplemental Authority p. 1). Defendants filed a Motion to Dismiss the Amended Complaint, to which Plaintiff responded on September 8, 2011. (Dkt. Nos. 19, 22.)

2. After Plaintiff filed his thirty-six (36) page<sup>1</sup> Opposition to Defendants' Motion to Dismiss Amended Complaint and after the deadline to file an opposition, Plaintiff filed a Motion for Leave to File Supplemental Authority. (Dkt. No. 23). In support of his Motion, Plaintiff makes reference to an Order entered in *Des Ogugua v. Wells Fargo*, No. 1:11CV188-LO (E.D. Va. Sept. 12, 2011).

3. This Court should deny Plaintiff's Motion for Leave to File Supplemental Authority because the Order, with which Plaintiff wishes to supplement the record, will not assist in this Court's ruling on Defendants' Motion to Dismiss the Amended Complaint. Indeed, the one (1) page Order is just that. The Court in *Des Ogugua* did not issue an opinion, and the Order itself does not contain any analysis, arguments, or facts which would assist this Court.<sup>2</sup>

4. In sum, the Order has no bearing on this Court's ruling on Defendants' Motion to Dismiss the Plaintiff's Amended Complaint, and leave to file supplemental authority based upon the Order is not appropriate.

### **CONCLUSION**

For the foregoing reasons, this Court should deny Plaintiff's Motion For Leave to File Supplemental Authority.

---

<sup>1</sup> Defendants consented to Plaintiff's request to file an Opposition that exceeded the page limit by five (5) pages. (Dkt. No. 21).

<sup>2</sup> It was apparent to the undersigned counsel (who was present at oral argument on the Motion to Dismiss in *Des Ogugua*) that the Court was concerned that material facts were in dispute, although this is not reflected in the Order issued by the Court. Of course, each case (both *Des Ogugua* and the instant case) is to be evaluated based upon its own facts. For this independent reason, this Court should deny Plaintiff's Motion for Leave to File Supplemental Authority.

**WELLS FARGO BANK, N.A.,  
FEDERAL HOME LOAN MORTGAGE  
CORPORATION  
AND SAMUEL I. WHITE, P.C.**

By: /s/ Hunter W. Sims, Jr.  
Hunter W. Sims, Jr. (VSB No. 9218)  
Email: [hwsims@kaufacn.com](mailto:hwsims@kaufacn.com)  
J. Bradley Reaves (VSB No. 71389)  
Email: [jbreaves@kaufcan.com](mailto:jbreaves@kaufcan.com)  
R. Ellen Coley (VSB No. 75970)  
Email: [recoley@kaufcan.com](mailto:recoley@kaufcan.com)  
Kaufman & Canoles, P. C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
(757) 624-3000  
(757) 624-3169 Facsimile

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of September 2011, a true copy of the foregoing has been electronically filed with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Amy Disel Allman, Esquire  
E-mail: [amyd@vlas.org](mailto:amyd@vlas.org)  
Virginia Legal Aid Society, Inc.  
155 East Washington Street  
Suffolk, VA 23439-3359  
(757) 539-3441  
(757) 539-5142 Facsimile  
*Counsel for Plaintiff*

Leonard A. Bennett, Esquire  
E-mail: [lenbennett@cox.net](mailto:lenbennett@cox.net)  
Susan M. Rotkis, Esquire  
E-mail: [srotkis@clalegal.com](mailto:srotkis@clalegal.com)  
Consumer Litigation Associates, PC  
12515 Warwick Boulevard, Suite 100  
Newport News, VA 23606  
(757) 930-3660  
(757) 930-3662 Facsimile  
*Counsel for Plaintiff*

By: /s/ Hunter W. Sims, Jr.  
Hunter W. Sims, Jr. (VSB No. 9218)  
Email: [hwsims@kaufacn.com](mailto:hwsims@kaufacn.com)  
J. Bradley Reaves (VSB No. 71389)  
Email: [jbreaves@kaufcan.com](mailto:jbreaves@kaufcan.com)  
R. Ellen Coley (VSB No. 75970)  
Email: [recoley@kaufcan.com](mailto:recoley@kaufcan.com)  
Kaufman & Canoles, P. C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
(757) 624-3000  
(757) 624-3169 Facsimile  
*Counsel for Defendants*  
*Wells Fargo Bank, N.A., Federal Home*  
*Loan Mortgage Corporation and*  
*Samuel I. White, P.C.*